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California Department of Corrections and
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JOHN ARMSTRONG, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 94-cv-02307 CW

**DECLARATION OF K. MCTAGGART
IN SUPPORT OF DEFENDANTS' SUR-
REPLY TO PLAINTIFFS' MOTION FOR
A PERMANENT INJUNCTION AT
SEVEN PRISONS AND STATEWIDE**

I, K. McTaggart, declare:

1. I am employed with the California Department of Corrections and Rehabilitation (CDCR). I currently work at Mule Creek State Prison. I am a Correctional Sergeant. I am competent to testify to the matters set forth in this declaration and, if called upon by this Court, I could and would so testify. I submit this declaration in support of Defendants' Sur-Reply to Plaintiffs' Motion for an Injunction at Seven Prisons and Statewide.

2. On August 27, 2020, I was performing my duties as a Program Sergeant in the Facility A, Building 5 Office. Correctional Officer R. Cook called Inmate [REDACTED] [REDACTED]

1 [REDACTED] to the Officer's Podium and notified him that he was removed from the Facility A,
2 Building 5 Second Watch Porter position.

3 3. I saw Inmate [REDACTED] walking towards the C-Section Dayroom and became disruptive
4 by clenching his fists, pacing back and forth, jumping up and down near the tables in C-Section
5 dayroom, and yelling obscenities such as, "Fuck you bitches! Fuck you N---s! You ain't shit!
6 You're racist!"

7 4. I heard Officer I. Beckham give Inmate [REDACTED] a direct order to return to his assigned
8 cell. Inmate [REDACTED] did not comply and yelled, "Fuck you! I ain't locking up!" I heard Officer I.
9 Beckham instruct Officer S. Wong to recall all inmates to their assigned cells.

10 5. I heard Officer S. Wong give an order via the Public Address System for all inmates
11 to return to their assigned cell. All inmates complied with orders with the exception of Inmate
12 [REDACTED]. Inmate [REDACTED] was pacing back and forth with his fists clenched and yelling obscenities.

13 6. While looking through the door in the Officer's Office, I observed Officer S. Medina
14 approach Inmate [REDACTED] and gave him a verbal order to submit to handcuffs. Suddenly, Inmate
15 [REDACTED] fell to the ground in a seated position. I saw Officer S. Medina give additional orders to
16 Inmate [REDACTED] to submit to handcuffs and simultaneously grab Inmate [REDACTED] right wrist with his
17 right hand in an attempt to secure inmate [REDACTED] hand behind his back. Inmate [REDACTED] pulled his
18 arm away from Officer Medina's grasp and spun his body towards Officer Medina. Inmate [REDACTED]
19 continued yelling obscenities such as, "Fuck you! Black Lives Matter!" I overheard multiple
20 officers give verbal orders for Inmate [REDACTED] to stop resisting and submit to handcuffs. Inmate
21 [REDACTED] was now on his stomach. He refused to comply with those orders and began thrashing his
22 body from side to side and pulling his hands away from his back and attempting to place them
23 under his stomach to avoid being secured in handcuffs.

24 7. I responded from the Facility A, Building 5 Officer's Office and called for a Code 1
25 response due to a resistive inmate on my institutional radio. I approached Inmate [REDACTED] and gave
26 a verbal order for him to stop resisting. Inmate [REDACTED] continued resisting by pulling his arms
27 away from staff and attempting to secure his hands under his body. I immediately grabbed
28 Inmate [REDACTED] left forearm with my left hand and used my physical strength to place his left

1 hand behind his back. Officer Cook also simultaneously grabbed inmate [REDACTED] left arm. Due to
2 my focus on securing Inmate [REDACTED] arm behind his back, I did not see Officer Cook's hand
3 placement. Once inmate [REDACTED] left hand was secured behind his back, Officer Medina secured
4 his left wrist in handcuffs.

5 8. Inmate [REDACTED] right wrist was already secured in handcuffs; however, due to my
6 focus on Inmate [REDACTED] left arm, I was unable to see who applied the handcuff or when it was
7 applied.

8 9. After he was secured in handcuffs, Inmate [REDACTED] stopped resisting, remained in the
9 prone position, and continuously yelled, "I can't breathe! Your knee is in my neck!" I observed
10 Officer Cook maintain control of Inmate [REDACTED] by placing his hands on Inmate [REDACTED] left
11 shoulder and apply downward pressure. At no time did I observe any officer place their knee on
12 Inmate [REDACTED] neck.

13 10. Inmate [REDACTED] was assisted back to the prone position. I went to the front of the
14 Building 5 to turn off the audible alarm. After I came back to the Building 5 Dayroom, Officer
15 Cook secured inmate [REDACTED] in leg restraints. Inmate [REDACTED] yelled obscenities again. Responding
16 Officer E. Brazil took control of Inmate [REDACTED] left side and Officer C. Winkler took control of
17 Inmate [REDACTED] right side.

18 11. I instructed Officers Brazil and Winkler to escort Inmate [REDACTED] to the Facility A
19 Clinic for a medical evaluation. Officers Brazil and Winkler assisted Inmate [REDACTED] to his feet and
20 escorted him out of Facility A, Building 5. I resumed my duties as a Program Sergeant.

21 12. I wrote an incident report documenting this incident the same day, August 27, 2020.
22 Attached to this declaration as **Exhibit A** is a true and correct copy of my report. This report
23 accurately describes what I observed that day, and I incorporate the contents of my report into this
24 declaration by reference.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 November 12, 2020, in Ione, California.

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5 K. McTaggart, Correctional Sergeant
6 Mule Creek State Prison
7 California Department of Corrections and Rehabilitation
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EXHIBIT A

CDCR

REPORT NO. [REDACTED]

INCIDENT REPORT PACKAGE

INCIDENT LOG NUMBER: [REDACTED]

PAGE: 18

PROCESSED: 10/02/2020 12:42

REQUESTOR: E. Laird

STAFF NARRATIVE

STAFF NAME: Mctaggart, K [REDACTED]
 CREATED DATE: 08/27/2020

NARRATIVE TYPE: Initial Report
 CREATED TIME: 14:48:20

NARRATIVE

On Thursday, August 27, 2020, at approximately 0824 hours, while performing my duties as A PROGRAM SGT EOP in the Facility A Building 5 Officer's Office, inmate [REDACTED] ([REDACTED]) was called to the Officer's podium by Correctional Officer R. Cook and was notified he was removed from the Facility A Building 5 second watch porter position. Without giving Correctional Officer R. Cook an opportunity to explain why he was removed, inmate [REDACTED] walked towards C-Section dayroom and became disruptive by clenching his fists, pacing back and forth, jumping up and down near the tables in C-Section dayroom, and yelling obscenities such as, "Fuck you bitches! Fuck you Niggas! You ain't shit! You're racist!"

I heard Officer I. Beckham give inmate [REDACTED] a direct order to return to his assigned cell. Inmate [REDACTED] did not comply and yelled, "Fuck you! I ain't locking up!" Officer I. Beckham notified Officer S. Wong to recall all inmates. I heard Officer S. Wong give an order via the Public Address System for all inmates to return to their assigned cell. All inmates complied with orders with the exception of inmate [REDACTED]. Inmate [REDACTED] continued to pace back and forth with his fists clenched and yelling obscenities.

While looking through the door in the Officer's Office, I observed Officer S. Medina approach inmate [REDACTED] and gave him a verbal order to submit to handcuffs. Suddenly, inmate [REDACTED] fell to the ground in a seated position. Officer S. Medina gave additional orders for inmate [REDACTED] to submit to handcuffs and simultaneously grabbed inmate [REDACTED] right wrist with his right hand in an attempt to secure inmate [REDACTED] hand behind his back. Without provocation, inmate [REDACTED] pulled his arm away from Officer Medina's grasp and spun his body towards Officer Medina. Inmate [REDACTED] continued yelling obscenities such as, "Fuck you! Black Lives Matter!" I overheard multiple Officer's give verbal orders for inmate [REDACTED] to stop resisting and submit to handcuffs. Inmate [REDACTED] was now on his stomach; however, he refused to comply with orders and began thrashing his body from side to side and pulling his hands away from his back and attempting to place them under his stomach to avoid being secured in handcuffs.

I responded from the Facility A Building 5 Officer's Office and utilized my institutional radio to call for a Code 1 response due to a resistive inmate in Facility A Building 5. I approached inmate [REDACTED] and gave a verbal order for him to stop resisting. Inmate [REDACTED] continued resisting by pulling his arms away from staff and attempting to secure his hands under his body. I immediately used physical force by grabbing inmate [REDACTED] left forearm with my left hand and used my physical strength to place his left hand behind his back. Officer Cook simultaneously grabbed inmate [REDACTED] left arm and used physical strength to force inmate [REDACTED] hand behind his back. Due to my focus on securing inmate [REDACTED] arm behind his back, I did not see Officer Cook's hand placement. Once inmate [REDACTED] left hand was secured behind his back, Officer Medina secured his left wrist in handcuffs. Inmate [REDACTED] right wrist was already secured in handcuffs; however, due to my focus on inmate [REDACTED] left arm, I was unable to see when or who applied the handcuff.

After secured in handcuffs, inmate [REDACTED] stopped resisting, remained in the prone position, and continuously yelled, "I can't breath! Your knee is in my neck!" I observed Officer Cook maintain control of inmate [REDACTED] by placing his hands on inmate [REDACTED] left shoulder and apply downward pressure. At no time, did I observe any officer place their knee on inmate [REDACTED] neck. Officer Medina assisted inmate [REDACTED] to a seated position.

Inmate [REDACTED] was assisted back to the prone position and Officer Cook secured inmate [REDACTED] in leg restraints. Inmate [REDACTED] was yelling obscenities again. Responding Officer E. Brazil took control of inmate [REDACTED] left side and C. Winkler took control of inmate [REDACTED] right side. I instructed Officer's Brazil and Winkler to escort inmate [REDACTED] to Facility A Clinic for a medical evaluation. Officer's Brazil and Winkler assisted inmate [REDACTED] to his feet and escorted [REDACTED] out of Facility A Building 5. I resumed my duties as A PROGRAM SGT EOP.

K. Mctaggart

DATE: 08/27/2020

STAFF SIGNATURE

BADGE #: 85546

PERNR: 94706

NARRATIVE REVIEWED: Yes

REVIEWED BY STAFF: Quiring, J [REDACTED]

REVIEWED DATE: 08/27/2020

REVIEWED TIME: 16:15:21

CDCR

INCIDENT REPORT PACKAGE

PAGE: 19

REPORT NO. [REDACTED]

INCIDENT LOG NUMBER: [REDACTED]

PROCESSED: 10/02/2020 12:42

REQUESTOR: E. Laird

STAFF NARRATIVE

STAFF NAME: McTaggart, K [REDACTED]

NARRATIVE TYPE: Supplemental Report

CREATED DATE: 09/02/2020

CREATED TIME: 09:21:16

NARRATIVE

Q1. Did you observe inmate [REDACTED] resisting again after being placed in handcuffs?

A1. No, after inmate [REDACTED] was assisted to the prone position I responded to the outside front of Building 5 to turn off the audible alarm. After returning to the incident location in Building 5 Dayroom, inmate [REDACTED] was assisted back to the prone position and Officer Cook applied the leg restraints. Due to my location in front of the Officer's podium and responding staff blocking my view, I was unable to see if inmate [REDACTED] resisted while applying leg restraints.

K. McTaggart

DATE: 09/02/2020

STAFF SIGNATURE

BADGE #: 85546

PERNR: 94706

NARRATIVE REVIEWED: Yes

REVIEWED BY STAFF: Quiring, J [REDACTED]

REVIEWED DATE: 09/02/2020

REVIEWED TIME: 09:41:42

STAFF NAME: Orr, F [REDACTED]

NARRATIVE TYPE: Initial Report

CREATED DATE: 08/27/2020

CREATED TIME: 12:40:12

NARRATIVE

On Thursday, August 27, 2020 at approximately 0824 hours, while performing my duties as A-Facility Clinic Officer, I heard a radio transmission for a code 1 response for a resistive inmate. I retrieved a wheelchair from the clinic and responded toward building 5 meeting several escorting officers and a resistive inmate [REDACTED] on the track nearest the EOP center. Inmate [REDACTED] was assisted to his feet and placed in the wheelchair without resistance by many escorting officers. I pushed inmate [REDACTED] to the clinic for a CDCR 7219 Medical Evaluation. Once Licensed Vocational Nurse (LVN) Baguion completed the Medical Evaluation I escorted inmate [REDACTED] to A-Facility Program Office. Officer Winkler assisted inmate [REDACTED] from the wheelchair and I returned to the clinic without further incident.

F. Orr

DATE: 08/27/2020

STAFF SIGNATURE

BADGE #: 70005

PERNR: 56462

NARRATIVE REVIEWED: Yes

REVIEWED BY STAFF: Clays, D [REDACTED]

REVIEWED DATE: 08/27/2020

REVIEWED TIME: 13:46:26